

Message Text

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ACTION ARA-10

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 INR-07 NSAE-00

PA-01 USIA-06 PRS-01 SP-02 /040 W
----- 073092

R 191800Z JUL 76
FM AMCONSUL SAO PAULO
TO SECSTATE WASHDC 0000
INFO AMEMBASSY BRASILIA
AMEMBASSY OTTAWA
AMCONSUL MONTREAL
AMCONSUL RIO DE JANEIRO

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E.O. 11652: N/A
TAGS: SHUMM, PFOR, BR
SUBJ: MILITARY COURT ACQUITS RODOLFO OSVALDO KONDER AND
SIXTY-FOUR OTHERS OF COMMUNIST PARTY ACTIVITY

REFS: BRASILIA 2335 (NOTAL), BRASILIA 2158 (NOTAL),
BRASILIA 2389 (NOTAL), BRASILIA 2639 (NOTAL),
SAO PAULO 605 (NOTAL), SAO PAULO 647 (NOTAL),
SAO PAULO 669 (NOTAL), STATE 82176 (NOTAL)

1. A MILITARY COURT IN SAO PAULO ON JULY 8 HANDED DOWN
VERDICTS FOR 76 PERSONS ACCUSED OF ATTEMPTING TO REORGANIZE
THE CLANDESTINE COMMUNIST PARTY (PCB). MANY OF THE ACCUSED
WERE JOURNALISTS PICKED UP IN THE WAVE OF ARRESTS IN LATE
OCTOBER 1975 WHICH INCLUDED VLADIMIR HERZOG, THE JOURNALIST
WHO DIED WHILE UNDERGOING MILITARY INTERROGATION.
BRASILIA 2335 MENTIONS THE BEGINNINGS OF THIS TRIAL ON
MARCH 11, INCLUDING THE GENERAL CHARGES AGAINST THE 76 ACCUSED
(PARA 5-- BELONGING TO A COMMUNIST CELL DURING THE PERIOD
1961-1954 AND FROM 1969 UNTIL AUGUST 1975).

2. THE COURT ACQUITTED 65 PERSONS, INCLUDING FORMER VEJA EDITOR
RODOLFO KONDER AND ESTADO DE SAO PAULO'S MIGUEL URBANO
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RODRIGUES. TWO OF THE ACCUSED HAD THEIR CASES DISMISSED.

ACCORDING TO O ESTADO DE SAO PAULO OF JULY 9, THE MILITARY COURT JUDGES ACQUITTED KOMDER BY A VOTE OF 3 TO 2. THE FOLLOWING NINE PRSONS WERE GIVEN TERMS RANGING FROM FOUR YEARS TO SIX MONTHS: EMILLIO BONFANTE DEMARIA, EDVALDO ALVES DA SILVA, FREDERICAO PESSOA DA SILVA, SEBASTIAO VITORINO DA SILVA, ISAIAS TRAJANO DA SILVA, FELICIANO EUGENIO NETO, HENRIQUE D'DRAGONA BUZZONE, GENIVALDO MATHIAS DA SILVA, JAIME RODRIGUES ESTRELA JUNIOR. THE LAST TWO, ALTHOUGH CONVICTED, WERE ORDERED RELEASED BECAUSE THEY HAD ALREADY SERVED THEIR SENTENCE WHILE UNDER ARREST.

3. THE DEPARTMENT WILL RECALL THAT RODOLFO KONDER FLED BRAZIL LAST FEBRUARY. HE OBTAINED WAIVER IN APRIL FOR A BRIEF VISIT TO NEW YORK TO SEEK EMPLOYMENT AT COLUMBIA UNIVERSITY. WE UNDERSTAND HE IS NOW RESIDING IN CANADA.

4. COMMENT: HIGH PERCENTAGE OF ACQUITTALS IN THIS TRIAL IS NOT UNUSUAL, ESPECIALLY WHEN SUCH A LARGE NUMBER OF PERSONS IS ARRESTED AS A GROUP AND CHARGED WITH VIOLATIONS OF THE NATIONAL SECURITY LAW. PRINCIPAL REASONS FOR ACQUITTALS IN THIS TYPE OF MASS TRIAL ARE THAT EVIDENCE AGAINST DEFENDANTS IS EITHER INSUFFICIENT FOR A GUILTY VERDICT OR IS DISREGARDED BY MILITARY TRIBUNALS BECAUSE IT IS TAINTED (OBTAINED THROUGH TORTURE). LAWYERS WHO DEFEND PERSONS ACCUSED OF SUBVERSION GENERALLY AGREE THAT STANDARD OF JUSTICE METED OUT IN MILITARY TRIBUNALS (OFFENSES AGAINST THE NATIONAL SECURITY LAW CAN ONLY BE TRIED IN MILITARY TRIBUNALS) IS HIGHER THAN IN ANY CIVILIA COURT EXCEPT SUPREME COURT (STF). SECURITY SERVICES ARE AWARE OF MILITARY TRIBUNAL STANDARDS AND ATTITUDES BUT THEIR OBJECTIVES, EXPECIALLY WHEN MANY PERSONS ARE INVOLVED, ARE NOT SO MUCH TO CONVICT BUT: TO "DISARTICULATE" (DESTROY OR CRIPPLE ORGANIZATIONS OR GROUPS CONSIDERED SUBVERSIVE); TO INTIMIDATE PERSONS WHO OPPOSE THE REGIME INTO EITHER STOPPING OR NOT UNDERTAKING ANY ANTI-REGIME ACTIVITY, AND, FINALLY TO SMEAR THOSE SUSPECTED OF BEING SUBVERSIVE. (THE SECURITY SERVICES ARE INCLINED TO APPLY THE TERM "SUBVERSIVE: TO COMMUNISTS OR OTHER LEFTISTS, TO THOSE OPPOSED TO THE REGIME, OR TO THOSE WHO ARE PUBLICLY CRITICAL OF THE ARMED FORCES.) THE RESULT OF SUCH A SMEAR IS THAT THE PERSON LIMITED OFFICIAL USE

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INVOLVED, EVEN IF ACQUITTED, SUFFERS ECONOMIC LOSS (USUALLY LOSES HIS JOB, CANNOT GET CREDIT, ETC.) AND SOME SOCIAL ISOLATION. THERE IS ABUNDANT EVIDENCE FROM RECENT CASES (INCLUDING THAT OF VLADIMIR HERZOG) THAT SECURITY SERVICES ARE ABLE TO OBTAIN ACCUSATIONS AGAINST LARGE NUMBERS OF PEOPLE BY ASKING PERSONS BEING TORTURED ABOUT THE POLITICAL VIEWS AND ACTIVITIES OF ANYONE SUSPECTED BY THE SECURITY SERVICES. END COMMENT.

5. EMBASSY CONCURS IN THIS MESSAGE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLITICAL MILITARY RELATIONS, COURTS MARTIAL, COURT DECISIONS, COMMUNISTS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976SAOPA01688
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760279-0753
From: SAO PAULO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760744/aaaabmmz.tel
Line Count: 118
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 BRASILIA 2335
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 12 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 APR 2004 by greeneet>; APPROVED <03 AUG 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MILITARY COURT ACQUITS RODOLFO OSVALDO KONDER AND SIXTY-FOUR OTHERS OF COMMUNIST PARTY ACTIVITY
TAGS: SHUM, PFOR, BR
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006